THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.33932 of 1997

Dated:12.09.2007

Between
Balla Rajeswar

..Petitioner

and

1. Govt of India, rep., by its Secretary
Ministry of Finance, Department of
Economic Affairs (Banking Division)
Jeevan Deep Building, Parliament Street
New Delhi and others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.33932 of 1997

ORDER:

This writ petition has been filed seeking a Mandamus to declare the action of the respondents in not continuing two increments in the revised pay scales and consequently fixing the basic pay of the petitioner at Rs.2460/- instead of Rs.2700/- with effect from 1.1.1991 based on a letter of NABARD dated 5.7.1991, without furnishing a copy of the same to the petitioner as arbitrary and illegal and violative of principles of natural justice.

It appears that initially the petitioner joined the service of Manjira Gramina Bank with effect from 24.1.1984. Thereafter, he got appointment in Sri Rama Gramina Bank and joined with effect from 30.12.1987. On

23.7.1988, the petitioner made a representation to 3rd respondent stating that he rendered three years of service in Manjeera Gramina Bank, Medak, and therefore, he may be granted two increments by considering his past service and the same was considered by Board of Directors of Sri Rama Gramina Bank and two increments were granted with effect from 1.1.1988. Thereafter in view of the award passed by the National Industrial Tribunal, the employees of Gramina Banks were put on time scale as applicable to the affiliated banks and the petitioner's salary was also revised and the basic pay was fixed at Rs.2700/- by taking the two increments granted into consideration. However, that is sought to be withdrawn under the impugned letter dated 5.7.1991 in view of clarification of the NABARD. Hence, the present writ petition is filed.

A detailed counter has been filed by the respondents denying the allegations made by the petitioner asserting that on putting the

petitioner to the regular time scale as applicable to the regular employees of State Bank of Hyderabad as per the award passed by National Industrial Tribunal, the two additional increments granted to the petitioner at the time of his appointment dated 1.1.1988 were withdrawn in pursuance of the letter issued by the NABARD dated 5.7.1991.

Heard both sides.

It appears that granting of these two additional increments was considered by the Board on the merits of the case of the petitioner with effect from 1.1.1988. Whereas the letter dated 5.7.1991 issued by NABARD reads as under:

> "Increments other than normal annual increments:
>
> Certain banks in Rajasthan have allowed one advance increment to those employees/officers who had completed 10 years service as on 1.9.1987 in consonance with similar provisions in the State of Rajasthan. Similarly, similar facilities/jumps were extended to RRB staff also.
>
> Whether increments/jumps should

> also be excluded for the purpose of arriving at the new fitment.
>
> As per para 4 (iv) of the GOI circular dated 22nd February 1991, for the purpose of fitment into new scales of pay, increments, if any, received by the employees prior to 1.9.1987 other than the normal increments may be excluded. Hence such increments will also have to be excluded."

It seems, when some provision was made for regularizing/allowing one advance increment to those employees/officers who had completed 10 years of service as on 1.9.1987, they were granted the same. This decision was clarified stating that for the purpose of fitment into new scales of pay, increments, if any, received by the employees prior to 1.9.1987 other than the normal increments may be excluded. Hence such increments will also have to be excluded.

Admittedly, in the present case, the increments were granted on 1.1.1988. Therefore, this particular clause of circular dated 5.7.91 has no application to the facts of

the present case. Apart from this, no notice of any kind was issued before withdrawing the additional two increments granted in favour of the petitioner. Therefore, I am of the opinion that the action of the respondents in withdrawing the two increments with effect from 1.1.1988 is arbitrary and illegal and in gross violation of principles of natural justice.

Accordingly, the writ petition is allowed and the respondents are directed to restore the additional two increments granted with effect from the date of filing of the writ petition i.e., 18.12.1997 with all consequential benefits.

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12-09-2007

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